IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 10283 of 2007(Y)

PETITIONER:

P.J.MARIA DAS,
PALLIPARAMBIL HOUSE, THOMASPURAM,
P.O.MARADU, ERNAKULAM DIST.

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENTS:

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1. THE SALES TAX OFFICER,
IIND CIRCLE, THRIPPUNITHURA, ERNAKULAM.

2. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM.

3. THE STATE OF KERALA,
R/BY THE SECRETARY TO GOVERNMENT,
GENERAL SALES TAX DEPARTMENT,
THIRUVANANTHAPURAM.

BY ADV. SHRI.MOHAMMED RAFFIQ, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 10283 of 2007

Dated, this the 1st day of June, 2007

J U D G M E N T

Petitioner was originally assessed by invoking Sec. 17(4) of the KGST Act. Thereafter suppression was noticed and assessments were modified under Sec. 19(1) of the KGST Act. Penalty orders were consequently issued under Sec. 17(5A) based on order under Sec. 19(1). However petitioner filed appeals against revised assessments and the appeals were partly allowed vide Ext.P4 order. Consequently the assessing officer revised the assessments vide Exts.P5 and P5(a), which shows that the tax assessed under the revised orders for the year 2000-01 & 2001-02 are substantially reduced. Petitioner's case is that there is threat of recovery against penalty during pendency of revisions filed against penalty orders. It is a settled position vide judgment of this Court that the penalty under Sec. 17 (5A) is automatic and the same will fluctuate with variation in revised assessment, as a result of which, petitioner is liable to pay penalty @ 3 times of tax determined under Exts. P5 & P5(a). This WP(C) is accordingly disposed of directing the assessing officer to modify the penalty orders as above. In view of the above decision, petitioner gets eligible relief

and consequently revisions have become infructuous. Revisional authority is directed to close the revisions as infructuous. Petitioner will produce copy of this judgment before the assessing officer for compliance.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg